

UNITED STATES DISTRICT COURT
FOR DISTRICT OF RHODE ISLAND

)
JONATHAN HELLER, Ph.D.,)
)
)
 Plaintiff,)
) Case No. 1:23-CV-00212 MSM-PAS
v.)
)
CHIRINJEEV KATHURIA, ELIZABETH)
NG, OCEAN BIOMEDICAL, INC.)
and POSEIDON BIO, LLC,)
)
 Defendants.)
)

)

**PLAINTIFF JONATHAN HELLER, Ph.D.'s APPLICATION FOR ENTRY OF
DEFAULT AGAINST DEFENDANTS CHIRINJEEV KATHURIA, ELIZABETH NG,
OCEAN BIOMEDICAL, INC. AND POSEIDON BIO, LLC**

Pursuant to Fed. R. Civ. P. 55 and D.R.I. Local Rule 55, Plaintiff Jonathan Heller, Ph.D., hereby applies to the Clerk of this Court to enter the default of Defendants Chirinjeev Kathuria, Elizabeth Ng, Ocean Biomedical, Inc., and Poseidon Bio, LLC (“Defendants”) for failure to defend, i.e., the failure to enter an appearance of counsel or notice of proceeding pro se, as required by the Court’s Order dated December 15, 2023 and by Local Rule Gen. 205(a)(3). Defendants’ failure to comply with the Court’s Order and the applicable local rule is set forth in the affidavit filed herewith.

Respectfully Submitted,

JONATHAN HELLER, Ph.D.,

By his attorneys,

/s/ Brendan J. Lowd _____

Brendan J. Lowd (#9085)

Geri L. Haight

(admitted pro hac vice)

Danielle L. Dillon

(pro hac vice motion to be filed)

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
One Financial Center
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Tel: (617) 542-6000
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Dated: January 19, 2024

CERTIFICATE OF SERVICE

I, Brendan J. Lowd, certify that on this 19th day of January, 2024, I caused a true copy of the foregoing to be filed with the Clerk of the United States District Court for the District Court of Rhode Island through the Court's Electronic Case Filing system ("ECF") and the corporate and individual Defendants via certified mail at the following addresses obtained from the State of Delaware, Divisions of Corporations office:

The Corporation Trust Company, c/o: Poseidon Bio, LLC
Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801

A Registered Agent, Inc., c/o Ocean Biomedical, Inc.
8 The Green, Ste A
Dover, DE 19901

Elizabeth Ng
8 The Green, Ste A
Dover, DE 19901

Chirinjeev Kathuria
8 The Green, Ste A
Dover, DE 19901

/s/ Brendan J. Lowd

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AFFIDAVIT IN SUPPORT OF APPLICATION FOR ENTRY OF DEFAULT

I, Brendan J. Lowd, state under oath and from my personal knowledge:

1. I am a member of the Bar of the State of Rhode Island, and a member of the law firm of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. I represent Plaintiff Jonathan Heller, Ph.D. (“Dr. Heller”) in the above-captioned action against Defendants Chirinjeev Kathuria, Elizabeth Ng, Ocean Biomedical, Inc. (“Ocean”) and Poseidon Bio, LLC (“Poseidon”) (collectively, “Defendants”).

2. On December 1, 2023, all attorneys of record for Defendants filed motions to withdraw as counsel for all named defendants in this action. *See* Dkt. Nos. 17-19.

3. Following a hearing on the motions held on December 15, 2023 before the Honorable Magistrate Judge Patricia A. Sullivan, the Court granted the motions to withdraw, on the condition that:

“Within thirty days of the entry of this Order, the individual Defendants are hereby ordered either to have substitute counsel enter on their behalf or to enter their pro se appearances in compliance with DRI LR Cv 205 and to defend this case pro se, including to attend their depositions. Within thirty days of the date of this Order, the entity Defendants are hereby ordered either to have substitute counsel enter on their behalf or face the risk of default

because they may not appear and defend pro se pursuant to DRI LR Cv 205(a)(3). Withdrawing counsel are ordered immediately to advise each of the Defendants of the content of this Order, including (if substitute counsel do not enter) of the mandate that the individual Defendants must enter pro se appearances and the caution that the entity Defendants are at risk of default, and to file a certification that they have complied with this directive.” *See Text Order re: Dkt. Nos. 17-19, Motions to Withdraw as Attorney*, dated December 15, 2023 (provisionally granting motions to withdraw Amy VanDamme, Scott Carroll and Brandon Darelius as counsel) (“December 15, 2023 Order”).

4. Pursuant to this Court’s December 15, 2023 Order, prior counsel filed a certification notifying all Defendants of the Court-imposed deadline of January 15, 2023 to either file an appearance of counsel or, with respect to the individual Defendants, to appear pro se. *See Dkt. No. 23*. On January 17, 2024, this Court granted the motions to withdraw in full, noting “...the failure of any Defendants to comply with the Court’s order that they must appear,” that “thirty days have passed since the Court provisionally granted the motions,” and that the former defense “attorneys promptly complied with the Court’s order that they must advise each of the Defendants regarding their obligations to appear through new counsel or pro se (only as to the individuals)[.]” *See Text Order re: Dkt. Nos. 17-19, Motions to Withdraw as Attorney*, dated January 17, 2024 (granting in full motions to withdraw Amy VanDamme, Scott Carroll and Brandon Darelius as counsel) (“January 17, 2024 Order”).

5. As noted in the Court’s January 17, 2024 Order, the deadline of January 15, 2024 has passed, and no counsel has filed an appearance on behalf of the corporate entity Defendants (as required by DRI LR Cv 205(a)(3), as corporations may not appear and defend pro se) nor on behalf of the individual Defendants. Similarly, the individual Defendants have not filed notice of their pro se appearance, as required by the December 15th Order.

6. Given that each Defendant in this action has failed to comply with the Court’s December 15th Order, and thus have failed to defend this case, entry of default is proper under Fed. R. Civ. P. 55(a), DRI LR Cv 205 and DRI LR Cv 55(a).

I declare under penalty of perjury that the foregoing is true and accurate.

/s/ Brendan J. Lowd
Brendan J. Lowd